

Legal Basis

BACKGROUND

- A. UN resolution (May 1951) called for embargo on shipment war materials (including POL) to Communist China, North Korea. Many UN members implemented resolution: Soviet bloc, some others refused.
- B. US recognizes fully belligerent status of Chinese Nationalists as group representing normal Chinese sovereignty. Thus, Nationalists, in eyes of US, would have right, as act of war, to intercept any ship or cargo destined for enemy.
- C. In the USSR's view, Nationalists would be considered rebels or insurgents. Thus, any Russian charge of piracy would not be correct since, under international law, insurgents are accorded de facto belligerent recognition if they meet certain requirements (display insignia, carry arms openly, etc.).

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D. Thus, "belligerent recognition" would entitle Nationalists to seizure of any POL cargoes bound for mainland, and more so since title of TUAPSE cargo was held by Chinese Communists. However, the vessel would have to be returned to the USSR, with which Nationalists at peace.

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Background - Nationalist Blockade

Nationalists first announced "port closure" June 1949 (to prevent shipping to major coast ports). This decree technically still in force.

- A. By August 1953, Nationalist blockade activities reached level which caused UK institute regular naval patrol protect British vessels in Formosan straits.
- B. Seizure Polish tanker PRACA (October 1953) was first Nationalist interception east of Formosa, also first move against Bloc vessel. Extending range farther, Nationalists (13 May 1954) seized Polish freighter GOTTWALD some 400 miles east Formosa. This was latest seizure until TUAPSE incident.

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